REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application. In this Amendment Under Rule 116 none of the claims are being amended. In the Examiner's final rejection dated October 18, 2004, the Examiner indicated that the Declaration submitted at that time did not show surprising or unexpected results; the Examiner stated that the Declaration did not show that aluminum powder is not interchangeable with titanium dioxide and other conventional opacifying agents. The Examiner was looking for evidence that aluminum powder was not merely interchangeable with the conventional opacifying agents.

In response, applicant is enclosing herewith a new Declaration of Patrick Johannes Blom which clearly and unmistakably establishes the surprising and unexpected results from the present invention and clearly establishes by evidence that aluminum powder is not interchangeable with the other opacifying agents. The evidence in the attached Declaration can be summarized as follows. An experiment was conducted in which 2 g/m^2 of the best conventional opacifying agent TiO_2 was used. But this did not provide sufficient opacity and the underlying image could be visually noticed through the opacifying layers. The experiment was then repeated in the same manner with only one change. The only change was that in the second white pigmented layer 0.03 g/m^2 of TiO_2 was removed and was replaced with 0.03 g/m^2 of aluminum powder. Despite this small substitution, surprisingly and unexpectedly the label was completely opaque and the existing printing could not be visually noticed through the opacifying layers. Paragraphs 12 and 13 of the attached Declaration convincingly point out the surprising and unexpected results from the present invention and are here quoted as follows.

" 12. In Example 2 the first white pigmented layer was the same as the first white pigmented layer of Example 1, but for the second white pigmented layer 0.03 g/m^2 of TiO_2 was removed and was replaced with 0.03 g/m^2 of aluminum powder. Despite this small substitution, surprisingly and unexpectedly the

label was completely opaque and the existing printing could not be visually noticed through the label image. Also, the printing and application characteristics were good.

13. The results of Examples 1 and 2 were surprising and unexpected. The only difference was that in Example 2, 0.03 g/m^2 of TiO_2 in the second pigmented layer was removed and was replaced with 0.03 g/m^2 of aluminum powder. As mentioned above, titanium dioxide has the highest refractive index and is accordingly considered to be the best opacifying pigment. When you remove a certain quantity of the best opacifying pigment and replace it with what is considered a lesser opacifying pigment, you would expect the opacifying properties to be less, not more. However, as shown in Examples 1 and 2 above, when 0.03 g/m^2 of the better opacifying pigment, TiO_2, was removed and was replaced with 0.03 g/m^2 of what was thought of as a lesser opacifying pigment, aluminum powder, surprisingly and unexpectedly the opacifying properties improved dramatically rather than getting worse. This is a surprising and unexpected result. It is surprising and unexpected when you expect something to get worse but rather it gets better. It was also surprising and unexpected that the substitution of a small amount of aluminum powder for TiO_2 in a large amount of a conventional white pigment such as TiO_2 could have such a dramatic impact on the hiding power of the opaque layer. It was surprising and unexpected that the substitution of a small amount of aluminum powder for TiO_2 could turn an opaque layer from one that could not hide an underlying image into one that could successfully and effectively hide an underlying image."

In summary, the only difference between Example 1 and Example 2 was that 0.03 g/m^2 of TiO_2 (considered to be the best opacifying pigment) was removed and was replaced with 0.03 g/m^2 of aluminum powder. Surprisingly and unexpectedly, when this small substitution was made, the label went from one which could not successfully hide the underlying image to one which could effectively hide the underlying image. When you remove a certain quantity of the best opacifying pigment and replace it with what is considered a lesser opacifying pigment, you would expect the opacifying properties to be less, not more. In the present invention, as shown in Examples 1 and 2 above, when 0.03 g/m^2 of the better opacifying pigment, TiO_2, was removed and was replaced with 0.03 g/m^2 of what was thought of as a lesser opacifying pigment, aluminum powder, surprisingly and unexpectedly the opacifying properties improved

dramatically rather than getting worse. It is surprising and unexpected when you expect something to get worse but rather it gets better.

In view of all the foregoing, it is clear that aluminum powder is not simply or merely interchangeable with the other opacifying pigments. The foregoing Declaration shows unmistakeably that surprising and unexpected results are achieved by the use of the present invention wherein, surprisingly and unexpectedly, the use of a small amount of aluminum powder creates dramatic, surprising and unexpected results in the performance of the opacifying layer. The Examiner has indicated that if it could be shown that aluminum powder provided surprising or unexpected results when compared with the conventional opacifying pigment that the patent application would be allowed. Since the present Declaration has now established beyond doubt that aluminum powder does provide such results, the Examiner should now accordingly allow the application.

For all the foregoing reasons, it is believed that the present application is now in condition for allowance, which is respectfully requested.

Applicant is also enclosing an extra copy of the Form PTO-1449 previously filed on February 22, 2002 and requests that it be initialed and returned with the next communication.

If there are any fees resulting from this communication, please charge the said fees to our Deposit Account No. 16-0820, Order No. 34434.

Respectfully submitted,

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